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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,079	07/16/2003	Kenneth L. Levy	P0856	1849
23735 7590 10/30/2007 DIGIMARC CORPORATION 9405 SW GEMINI DRIVE BEAVERTON, OR 97008			EXAMINER WILLIAMS, JEFFERY L	
			ART UNIT 2137	PAPER NUMBER
			MAIL DATE 10/30/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/622,079	Applicant(s) LEVY ET AL.	
	Examiner Jeffery Williams	Art Unit 2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 30 and 36-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 30,36-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

This action is in response to the communication filed on 8/15/07.

All objections and rejections not set forth below have been withdrawn.

Claims 30, 36 – 41 are pending.

***Election/Restrictions***

Applicant's election of claims 30 and 36 - 39 in the reply filed on 8/15/07 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 30 and 36 – 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmelzer, "Copyright Detection and Protection System and**

Method", U.S. Patent Publication 2003/0037010 in view of Razdan, "Real-time, Distributed, Transactional, Hybrid Watermarking Method to Provide Trace-ability and Copyright Protection of Digital Content in Peer-to-Peer Networks", U.S. Patent Publication 2002/0168082.

Regarding claim 30, Schmelzer discloses:

*maintaining a limited list of content items, the list consisting of those content items that are to be transmitted during a predetermined time period, the limited list of content items being respectively associated with one or more fingerprints derived from the content items themselves (par. 34);*

*deriving a fingerprint from a content item monitored from the network; and interrogating the limited list of content items with the fingerprint to identify the monitored content item (par. 34)*

Schmelzer does not appear to explicitly disclose that a network within a content fingerprinting system may comprise broadcast network. Razdan discloses that fingerprinting systems may comprise broadcast networks that broadcast content (par. 32, 37, 38). It would have been obvious to recognize the broadcasting features as found within prior art fingerprinting systems such as Razdan within the fingerprinting system of Schmelzer. This would have been obvious because one of ordinary skill in the art would have been motivated by the advantages of a more flexible and socially relevant system.

Regarding claims 36 – 41, they are rejected, at least for the same reasons as claim 30, and furthermore because the prior art combination discloses the features of *receiving a list of content items...storing the list of content items in a table or data structure; receiving a content item, the content item comprising audio or video; deriving a fingerprint from the content item itself...communicating a signal representing at least the identified content item to a remote device* (Schmelzer, par. 33, 34, 79; fig. 1:121, 123; par. 47).

### ***Response to Arguments***

Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

**See Notice of References Cited.**

A shortened statutory period for reply is set to expire **3** months (not less than 90 days) from the mailing date of this communication.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery Williams whose telephone number is (571) 272-7965. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

J. Williams  
AU: 2137

  
EMMANUEL L. MOISE  
SUPERVISORY PATENT EXAMINER